

**Notice of Allowability**

Application No.

09/146,259

Applicant(s)

YOSHIDA ET AL.

Examiner

William M. Treat

Art Unit

2183

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed on 5/3/2004.
2. ☒ The allowed claim(s) is/are 1-25.
3. ☒ The drawings filed on 03 May 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

WILLIAM M. TREAT  
PRIMARY EXAMINER

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1. The examiner has accepted the drawing changes submitted on 5/3/2004.
2. The examiner has treated applicants' petition of 5/3/2004 as a request for reconsideration of his objection to the drawings. Based on the Board's ability to render a decision on the patentability of the claims using applicants' drawings and applicants' submission, the examiner has decided to withdraw his objections to the drawings.
3. The following is an examiner's statement of reasons for allowance: Based on the Board's conclusions (1) that applicants' insistence that the term, instruction, in his claim language can mean both a multi-operation instruction and single operation instruction introduces no indefiniteness into his claim language, (2) that the examiner's simple loop program using instructions set forth in the Holman patent represented neither an inherent ability of Holman's system nor something known to one of ordinary skill in the art but, instead, required hindsight to construct, and (3) that the 112, 1<sup>st</sup> rejection of independent claim 1 and its dependents can be overcome by interpreting applicants' language in claim 1 as requiring the worst case value for the different periods be used or some greater value, the examiner has decided that claim 1 and its dependent claims are allowable over the prior art of record. Based on the Board's conclusions (1) that applicants' insistence that the term, instruction, in his claim language can mean both a multi-operation instruction and single operation instruction introduces no indefiniteness into his claim language and (2) that the examiner's simple loop program using instructions set forth in the Holman patent represented neither an inherent ability of Holman's system nor something known to one of ordinary skill in the art but, instead, required hindsight to construct, the examiner has decided that independent claims 14 and 21 and their respective dependents are allowable over the prior art of record.

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4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication should be directed to William M. Treat at telephone number 703 305 9699. The examiner works at home on Wednesdays but may normally be reached on Wednesdays by leaving a voice message using his office phone number. The examiner also works a flexible schedule but may normally be reached in the afternoon and evening on three of the four remaining weekdays.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WILLIAM M. TREAT**  
**PRIMARY EXAMINER**